

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

IN RE:

CASE NO.: 8:15-bk-06908-CPM  
Chapter 11

JOSEPH O. ASTORGA

Debtors.

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**BRANCH BANKING & TRUST COMPANY'S MOTION FOR  
RELIEF FROM THE AUTOMATIC STAY  
(Property located at 2104 E Flora Street Tampa, FL 33610)**

COMES NOW, BRANCH BANKING & TRUST COMPANY (hereinafter referred to as "BB&T"), by and through its undersigned counsel, hereby moves the Court pursuant to Federal Rules of Bankruptcy Procedure 4001-1(C) and 9014 to lift the automatic stay imposed by 11 U.S.C. Section 362(a) for cause under 11 U.S.C. Section 362(d), and in support of its motion states:

1. The Debtor filed for relief under Chapter 11 of the Bankruptcy Code on July 1, 2015.
2. The Court has jurisdiction of this matter pursuant to 28 U.S.C. Section 157(b)(2)(A), (b)(2)(G) and 1334.
3. BB&T is a secured creditor of the Debtor by virtue of a Note dated October 1, 2008, in the original principal sum of \$102,000.00 (the "Note").
4. A Mortgage dated October 1, 2008, recorded in the Public Records of Hillsborough County, Florida serves as collateral for the Note (the "Mortgage"). Thereafter, Debtor executed a Loan Modification Agreement on November 1, 2012. The Mortgage was assigned to BB&T by way of an Assignment of Mortgage and Revocation of Designation of Nominee Status dated September 17, 2013 and was recorded in the Public Records of Hillsborough County, Florida. A copy of the Note, Mortgage and Loan Modification Agreement and Assignment are attached hereto

as **Composite Exhibit “A”**. The attached Mortgage and Assignment of Mortgage contain the stamp of the Clerk of Court evidencing that the valid lien of the creditor is properly recorded in the public records of the county in which the property is situated.

5. The property subject to the Mortgage is located at 2104 E Flora Street Tampa, Florida 33610 (hereinafter “Real Property”), and is legally described as follows:

**LOT 6, BLOCK 3, SEMINOLE CREST SUBDIVISION, ACCORDING TO  
THE PLAT THEREOF AS RECORDED IN PLAT BOOK 32, PAGE 1, OF  
THE PUBLIC RECORDS OF HILLSBOROUGH COUNTY, FLORIDA**

6. BB&T seeks relief from the stay to pursue its *in rem* rights in the subject property, including the ability to commence or continue foreclosure proceedings through a sale of the subject Real Property in the appropriate Court. BB&T will not seek *in personam* relief directly from the Debtors; however, nothing herein shall waive the right of BB&T to file or amend a Proof of Claim in the bankruptcy proceedings for any resulting deficiency.

7. The Debtor have defaulted under the Note and Mortgage by failing to make timely payments on the Note, and currently owes for the April 1, 2014, payment, as well as all subsequent payments. This loan has been in default for a substantial period of time.

8. BB&T is owed the principal sum of \$146,146.33 with interest, late charges, attorney's fees and costs pursuant to the terms of the Note attached hereto as Exhibit "A". BB&T is filing an Affidavit in support of the amounts due in this matter.

9. In his Schedules, the Debtor indicates that the value of the property is \$30,000.00. BB&T is in the process of obtaining an appraisal of the property. BB&T further submits that the issue of equity is irrelevant under the circumstances of this case. Regardless, it is submitted that any such equity is most likely nominal at best.

10. BB&T respectfully requests this Court enter an order granting BB&T full relief from

the automatic stay to proceed with a foreclosure action on the Real Property in State Court. In support of granting full stay relief, BB&T states that the Real Property is not necessary for the Debtors' effective reorganization, and there is no equity in the property for the benefit of the Debtors' creditors.

11. BB&T has not been offered, nor has received any adequate protection from the Debtor since April 1, 2014.

12. BB&T will suffer irreparable damage and will be left with inadequate security for its debt if this court does not grant relief from the automatic stay with respect to its rights in the Real Property.

WHEREFORE, Secured Creditor, BRANCH BANKING & TRUST COMPANY respectfully requests this Honorable Court enter an Order granting BB&T full relief from the automatic stay to pursue its State Court foreclosure proceedings on the Real Property and for such other and further relief as the Court deems just and proper.

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via electronic mail or U.S. mail to: Joseph O. Astroga, 39207 Park Drive, Zephyrhills, FL 33542; David W. Steen, Esq, 602 S Blvd, Tampa, FL 33606; J Steven Wilkes, Office of United States Trustee, 501 East Polk Street, Tampa, FL 33602; Office of US Trustee, Timberlake Annex, Suite 1200, 501 E Polk Street, Tampa, FL 33602 this 3<sup>rd</sup> day of August, 2015.

KELLEY & FULTON, P.L.  
Attorney for BB&T  
1665 Palm Beach Lakes Blvd.  
Suite 1000  
West Palm Beach, Florida 33401  
Telephone No.: (561) 491-1200  
Facsimile No.: (561) 684-3773

By: /s/ Craig I. Kelley  
Craig I. Kelley, Esquire  
Fla. Bar No. 782203

Label Matrix for local noticing  
113A-8  
Case 8:15-bk-06908-CPM  
Middle District of Florida  
Tampa  
Fri Jul 24 16:23:27 EDT 2015

Joseph O Astorga  
39207 Park Drive  
Zephyrhills, FL 33542-4693

Advanta Bank Corp.  
PO Box 660676  
Dallas, TX 75266-0676

Amex  
P O Box 297871  
Ft. Lauderdale, FL 33329-7871

B B & T  
P O Box 2027  
Greenville, SC 29602-2027

(p)BB AND T  
PO BOX 1847  
WILSON NC 27894-1847

(p)BANK OF AMERICA  
PO BOX 982238  
EL PASO TX 79998-2238

Cap One  
3800 Golf Road Suite 105  
Rolling Meadows IL 60008-4028

(p)CAPITAL ONE  
PO BOX 30285  
SALT LAKE CITY UT 84130-0285

Cavalry Portfolio Services  
500 Summit Lake Drive  
Valhalla, NY 10595-2322

Chase  
P O Box 24696  
Columbus, OH 43224-0696

Chase  
P. O. Box 15298  
Wilmington, DE 19850-5298

Cierra Cibbles  
910 E Broad Street  
Apt. B  
Tampa, FL 33604-4328

Department of Labor and Security  
Hartman Building Suite 307  
2012 Capital Circle Southeast  
Tallahassee FL 32399 0648

Department of Revenue  
PO Box 6668  
Tallahassee FL 32314-6668

(p)INTERNAL REVENUE SERVICE  
CENTRALIZED INSOLVENCY OPERATIONS  
PO BOX 7346  
PHILADELPHIA PA 19101-7346

Florida Central Credit Union  
P O Box 18605  
Tampa, FL 33679-8605

HSBC Bank  
P O Box 5253  
Carol Stream, IL 60197-5253

Internal Revenue Service  
P.O. Box 7346  
Philadelphia, PA 19101-7346

Jacki Williams  
1908 E New Orleans Avenue  
Tampa, FL 33610-5008

Jackie Rosen  
910 E Broad Street  
Apt. A  
Tampa, FL 33604-4328

Janet Powell  
2104 E Flora Street  
Tampa, FL 33610-1044

(p)JEFFERSON CAPITAL SYSTEMS LLC  
PO BOX 7999  
SAINT CLOUD MN 56302-7999

LKJ Enterprises, LLC  
P O Box 205  
San Antonio, FL 33576-0205

Lowe's  
P. O. Box 530914  
Atlanta, GA 30353-0914

Marshall C. Watson PA  
PO Box 9908  
Ft Lauderdale, FL 33310-0908

Merchants Assoc Cool D  
134 S Tampa Street  
Tampa, FL 33602-5396

Midland Funding, LLC  
8875 AERO Dr  
Suite 200  
Oaks, PA 92123-2255

Onewest Bank  
6900 Beatrice Drive  
Kalamazoo, MI 49009-9559

Pinnacle Credit Service  
7900 Highway 7 #100  
St Louis Park, MN 55426-4045

Pinnacle Credit Service  
P O Box 640  
Hopkins, MN 55343-0640

Portfolio Recovery Associate  
P O Box 41067  
Norfolk, VA 23541-1067

Soaring Capital, LLC  
150 Lake Street  
Elmira, NY 14901-3401

Tenant  
1610 E Idlewild Avenue  
Tampa, FL 33610-4341

U. S. Attorney General  
U.S. Dept. of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

U.S. Attorney General  
Attn: Civil Process  
400 N. Tampa Street, Ste 320  
Tampa, FL 33602-4719

Unvi/Citi  
P O Box 6241  
Sioux Falls, SD 57117-6241

David W Steen +  
David W Steen PA  
602 S Boulevard  
Tampa, FL 33606-2630

United States Trustee - TPA +  
Timberlake Annex, Suite 1200  
501 E Polk Street  
Tampa, FL 33602-3949

J Steven Wilkes +  
Office of United States Trustee  
501 East Polk Street  
Tampa, FL 33602-3949

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

BB&T  
PO Box 1847  
Wilson, NC 27894

Bank of America  
P O Box 982235  
El Paso, TX 79998

Cap One  
P O Box 85520  
Richmond, VA 23285

Department of Treasury  
Internal Revenue Service  
Philadelphia CIO  
P. O. Box 21126  
Philadelphia, PA 19114

(d)Internal Revenue Service  
400 W. Bay Street Ste 35045  
Stop 5730 P&I 2  
Jacksonville, FL 32202-4437

Jefferson Capital Systems  
P O Box 7999  
St Cloud, MN 56302

End of Label Matrix  
Mailable recipients 39  
Bypassed recipients 0  
Total 39